

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-22 are pending in the application, with claims 1, 16, 18 and 22 being the independent claims. No new claims are added. Claims 1, 18 and 22 are amended herein. Support for these amendments can be found for example at paragraph 0023 of the specification. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendments and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1-2, 7, 12-15, 18-19 and 22 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,076,282 to Brue' (Brue').

Claim 1 has been amended herein to specifically recite that "a diameter of said receptacle is not greater than a diameter of said *outward-most surface* of said protrusion such that only a portion of said *outward-most surface* of said protrusion may extend through said receptacle." Brue does not disclose this feature of claim 1.

Similarly, Claim 22, as amended, requires that "a diameter of said receptacle is not greater than a diameter of said *outward-most surface* of said protrusion such that

only a portion of said *outward-most surface* of said protrusion may extend through said receptacle." Brue does not disclose this feature of claim 22.

Brue' discloses that "Cylindrical reliefs 1 project upwards from the outsole S, while the midsole R has a matching plurality of holes 2, constructed so that when the midsole R is mounted on the outsole S (see FIG. 3) the holes 2 are superimposed exactly on the reliefs 1." (col. 4, ln. 16-20). Further, Brue' discloses that,

At the top of the reliefs 1 there is preferably provided a small cylinder-conical [*sic*] protuberance 1a with a rounded tip, having a maximum diameter slightly less than the diameter of the holes 2 and height approximately equal to the thickness of the midsole R, such that during the pressing action of the foot this protuberance 1a gradually "occupies" the empty space of the holes 2, causing perfect centering of the holes 2 on the reliefs 1 during any walking conditions and also providing a continuous support for the foot.

(col. 4, ln. 32-40).

As such, Brue' requires that the outward-most surface of reliefs 1 (protuberance 1a) has a maximum diameter *less* than the diameter of holes 2, such that the outward-most surface of reliefs 1 (protuberance 1a) "occlude" the holes when the midsole or insole is deformed. Brue' does not disclose an arrangement in which a diameter of holes 2 is not greater than a diameter of the *outward-most surface* of reliefs 1 (protuberance 1a) or an arrangement in which only a portion of the *outward-most surface* of reliefs 1 (protuberance 1a) extends through holes 2. For at least these reasons, independent claims 1 and 22, as amended, are patentable over Brue'. Claims 2, 7, and 12-15 depend from and add further features to independent claim 1 and are thus patentable for at least the same reasons as claim 1.

Claim 18, as amended, calls for "applying pressure to the forefoot region of said sole, thereby forcing said *outward-most surface* of said protrusion and said receptacle together; and deflecting only a portion of said *outward-most surface* of said protrusion into said receptacle." Unlike the claimed invention, the outward-most surface of reliefs 1 (protuberance 1a) in Brue' extends fully into holes 2. In fact, the Brue' specification states that "during the pressing action of the foot this protuberance 1a gradually 'occupies' the empty space of the holes 2." Col. 4, lines 36-38. Brue' does not disclose deflecting only a portion of the outward-most surface of reliefs 1 (protuberance 1a) into holes 2. For at least this reason, claim 18 is patentable over Brue'. Claim 19 depends from and adds further features to independent claim 18 and is thus patentable for at least the same reasons as claim 18.

Applicant respectfully requests the withdrawal of the 35 U.S.C. § 102(b) rejection and the allowance of claims 1-2, 7, 12-15, 18-19 and 22.

Rejections under 35 U.S.C. § 103

Claims 8-10 and 20 are rejected over 35 U.S.C. § 103(a) as being obvious over Brue' in view of U.S. Patent No. 6,199,304 to Ludemann. Claims 8-10 depend from and add further features to claim 1, and thus are patentable for at least the same reasons as claim 1 discussed above. Similarly, claim 20 depends from and adds further features to claim 18, and thus is patentable for at least the same reasons as claim 18 discussed above.

Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection and the allowance of claims 8-10 and 20.

Other Matters

The Examiner has indicated that claims 3-6 and 21 include allowable subject matter. Applicant submits that independent claims 1 and 18 are also allowable. Claims 3-6 depend from and add further features to claim 1, and thus are allowable for at least the same reasons as claim 1 discussed above. Similarly, claim 21 depends from and adds further features to claim 18, and thus is patentable for at least the same reasons as claim 18 discussed above. Allowance of claims 3-6 and 21 is respectfully requested.

Applicant appreciates the Examiner's allowance of claims 16 and 17.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

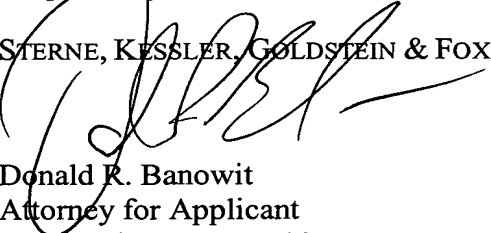
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Appl. No. 10/696,555

Prompt and favorable consideration of this Amendment and Reply is respectfully
requested.

Respectfully submitted,

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